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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,261	09/11/2003	David M. Harris	HARRIS-00201	7784
28960	7590	09/07/2005		
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER ROANE, AARON F	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,261

Applicant(s)

HARRIS, DAVID M.

Examiner

Aaron Roane

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All. b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04, 3/26/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS: 11/1/04</u> . |

DETAILED ACTION

Election/Restrictions

Claims 1-12 and 21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/3/2005.

Therefore, the examiner will examine claims 13-20.

Specification

The disclosure is objected to because of the following informalities:

- On page 2, line 16, please change "heath" to -health--.

Appropriate correction is required.

Claim Objections

Claim 14 is objected to because of the following informalities: the recitation "adjusting the pulsed laser output comprises controlling a distance between a firing end of the laser source and a surface of the target," is improper. The issue here is that there is no means disclosed the specification of the present invention that accomplishes the adjustment of pulsed laser output by adjusting the distance between the firing end of the laser source and the surface of the target. It might be possible that Applicant is intending to recite adjusting the energy/power density irradiating the target surface by controlling a distance between a firing end of the laser source and a surface of the target. This recitation would make sense and would also be perfectly enabled by the present disclosure. In order to provide an initial examination the examiner will follow the latter interpretation.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Coffelt et al.,

“Determination of energy density threshold for laser ablation of bacteria- An in vitro study”,

J Clin Periodontology 1997, 24:1-7.

Regarding claim 13, Coffelt et al. disclose a method of determining a damage threshold for delivering an antiseptic dose to a pathogen in a target, the method comprising: measuring a pulsed laser output from a laser source (see abstract, pages 2-3 and table 1); irradiating the target with the pulsed laser output, wherein the target comprises the pathogen (see entire disclosure); examining the pathogen for ablation (see page 2); adjusting the pulsed laser output energy/power density (see page 2 and table 1); and repeating steps (a) through (d) to determine the ablation threshold of the pathogen within the target (see page 2-6).

Regarding claim 14, Coffelt et al. disclose the claimed invention, see page 2-4 and table 1.

Regarding claim 15, Coffelt et al. disclose the claimed invention, see pages 2-5.

Regarding claims 16 and 17, Coffelt et al. further disclose calculating a therapeutic ratio for treating a periodontal tissue comprising the pathogen and selecting a treatment protocol for treating periodontal tissues that host the pathogen based on the therapeutic ratio, see entire disclosure.

Regarding claim 18, Coffelt et al. further disclose the pulsed laser output corresponds to a wavelength in a range of 580 to 1800 nanometers, see page 5, col. 1.

Regarding claim 19, although Coffelt et al. are silent as to whether or not the laser device used has a fiber optic, the examiner takes official notice of the recited optical fiber (fiber optic) and states that it is extremely well known in the art that fiber optics are used to irradiate a target site with laser output.

Regarding claim 20, Coffelt et al. further disclose examining the pathogen for ablation comprises scanning an exposed region of the target with an optical scanning means, see page 2-5 and figures 1-6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Roane whose telephone number is (571) 272-4771. The examiner can normally be reached on Monday-Thursday 7AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.R. *A.R.*
September 2, 2005

Roy D. Gibson
ROY D. GIBSON
PRIMARY EXAMINER